

IN THE UNITED STATES DISTRICT FOR
THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

HOLCOMBE, et. al,

Plaintiffs

vs.

UNITED STATES OF
AMERICA,

Defendant

NO. 5:18-CV-00555-XR

(consolidated cases)

Parties, by and through their counsel of record, stipulate:

1. On June 9, 2011, Air Force Office of Special Investigations (“AFOSI”) conducted a subject interview of Devin Patrick Kelley. At the end of the interview, two sets of Kelley’s fingerprints were collected on fingerprints cards (FD-249). Kelley’s fingerprints were not submitted to the FBI CJIS Division.
2. On February 17, 2012, the 49th Security Forces Squadron (“SFS”) investigators conducted a subject interview of Devin Patrick Kelley. The 49th Security Forces Squadron did not collect Devin Kelley’s fingerprints and did not submit them to the FBI CJIS Division.
3. On June 8, 2012, DoD and Air Force instructions and policies required the AFOSI Detachment 225 to collect and submit Devin Kelley’s fingerprints to the FBI CJIS Division. The AFOSI Detachment 225 did not collect Devin Kelley’s fingerprints and did not submit them to the FBI CJIS Division.

4. On November 7, 2012, after Devin Kelley's General Court-Martial conviction, DoD and Air Force instructions and policies required the 49th Security Forces Squadron Confinement Facility to collect Devin Kelley's fingerprints and submit them to the FBI CJIS Division. The 49th Security Forces Squadron Confinement Facility employees did not collect and submit Devin Kelley's fingerprints to the FBI CJIS Division.
5. After Devin Kelley's General Court-Martial conviction on November 7, 2012, DoD and Air Force instructions and policies required the Department of Defense to submit Devin Kelley's final disposition report of his felony assault conviction for a crime of domestic violence to the FBI CJIS Division. The Department of Defense did not submit Kelley's final disposition report of his conviction to the FBI CJIS Division.
6. On December 14, 2012, the AFOSI Detachment 225 received the results of Kelley's General Court-Martial conviction. DoD and Air Force instructions and policies required the AFOSI Detachment 225 to submit Devin Kelley's fingerprints and the final disposition report of his felony assault conviction for a crime of domestic violence to the FBI CJIS Division. The AFOSI Detachment 225 did not submit Kelley's fingerprints or final disposition report to the FBI CJIS Division's criminal history repository.
7. From June 29, 2011 through October 5, 2012, DoD and Air Force instructions and policies required AFOSI Detachment 225 leadership to perform monthly reviews of the Kelley investigation. During the 15 monthly reviews, the AFOSI Detachment 225 leadership did not note that Kelley's fingerprint cards had not been submitted to the FBI CJIS Division. AFOSI Detachment 225 leadership took no corrective action to ensure Kelley's fingerprints were collected and submitted to the FBI CJIS Division.
8. Following Devin Kelley's court-martial conviction on November 7, 2012, but prior to the November 5, 2017 shooting at the First Baptist Church of Sutherland Springs, Texas, the AFOSI Detachment 225 never submitted Kelley's

fingerprints or final disposition report of conviction to the FBI CJIS Division, as required by DoD and Air Force instructions and policies. Consequently, Devin Kelley's fingerprints and conviction were not in the FBI's National Instant Criminal Background Check System at any time before November 5, 2017.

9. Following Devin Kelley's court-martial conviction on November 7, 2012, but prior to the November 5, 2017 shooting at the First Baptist Church of Sutherland Springs, Texas, the 49th Security Forces Squadron did not collect Kelley's fingerprints or submit them with the final disposition report of his felony assault conviction for a crime of domestic violence to the FBI CJIS Division, as required by DoD and Air Force instructions and policies. Consequently, Devin Kelley's convictions were not in the FBI's National Instant Criminal Background Check System at any time before November 5, 2017.

Agreed to on behalf of the United States:

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